

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

THE APPLICATION OF GILBERT CONSTRUCTION)
d/b/a GRAHAM ESTATES FOR A RATE) CASE NO.
ADJUSTMENT PURSUANT TO THE ALTERNATIVE) 99-315
RATE PROCEDURE FOR SMALL UTILITIES)

ORDER

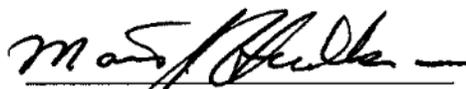
On September 23, 1999, Gilbert Construction Services, Inc. d/b/a Graham Estates ("Graham Estates") filed its application for Commission approval of proposed sewer rates. Commission Staff, having performed a limited financial review of Graham Estates' operations, prepared a Staff Report that was issued by Commission Order dated January 25, 2000. A teleconference was held on March 7, 2000, to discuss the application and the Staff Report. During the conference matters arose that had not been previously brought to Staff's attention. As a result of the conference and after review of the information filed subsequent thereto, Staff has prepared the attached Amended Staff Report. All parties should review the report carefully and provide any written comments or requests for a hearing or informal conference no later than 10 days from the date of this Order.

IT IS THEREFORE ORDERED that all parties shall have no more than 10 days from the date of this Order to provide written comments regarding the attached Staff Report or requests for hearing or informal conference. If no request for a hearing or informal conference is received, this case will be submitted to the Commission for a decision.

Done at Frankfort, Kentucky, this 28th day of April, 2000.

By the Commission

ATTEST:


Executive Director

AMENDED STAFF REPORT
ON
GILBERT CONSTRUCTION d/b/a GRAHAM ESTATES
CASE NO. 99-315

On September 23, 1999, Gilbert Construction d/b/a Graham Estates (“Graham Estates”) filed its application seeking to increase its sewer rates pursuant to 807 KAR 5:076, the Alternative Rate Adjustment Procedure for Small Utilities. Staff expressed its recommendations with regard to Graham Estates’ application in a Staff Report issued on January 25, 2000. To discuss the application and the Staff Report a teleconference was held on March 7, 2000. During the conference Graham Estates presented arguments against various aspects of the Staff Report. It was agreed that Graham Estates would submit additional information pursuant to the conference.

After considering the arguments made at the conference and the information filed subsequent thereto, Staff hereby amends its original report and recommends that the rate approved in this case be a monthly flat rate of \$17.49 per customer. Attachment A of this report details the additional adjustments to Staff’s recommended pro forma operating income statement. Attachment B details the calculation of Staff’s amended revenue requirement and recommended rate.

Signatures

Prepared by: Jack Scott Lawless, CPA
Financial Analyst, Water and Sewer
Revenue Requirements Branch
Division of Financial Analysis

Prepared by: Sam Reid
Rate Analyst, Communications, Water,
and Sewer Rate Design Branch
Division of Financial Analysis

ATTACHMENT A
 AMENDED STAFF REPORT CASE NO. 99-315
 STAFF'S RECOMMENDED OPERATIONS

	Pro forma Present Rate Operations per Staff Report of Jan. 25, 2000	Adjustment	Ref.	Pro forma Present Rate Operations Amended Staff Report
Operating Revenues	<u>8,911</u>			<u>8,911</u>
Operating Expenses				
Contract labor - C.G. Williams, Inc.	525	(230)	A	295
Operating contract	1,556			1,556
Purchased power	2,275			2,275
Baird plumbing and heating	752			752
Owner manager fee	3,600			3,600
Legal and professional expenses			B	-
KPDES permit fee	<u>200</u>			<u>200</u>
Total Operating Expenses	<u>8,908</u>	<u>(230)</u>		<u>8,678</u>
Net Operating Income	<u>3</u>	<u>230</u>		<u>233</u>

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 STAFF'S RECOMMENDED OPERATIONS

A) Contract Labor - C.G. Williams, Inc. During the informal conference, Graham Estates expressed concern that services provided by C.G. Williams had drastically increased since the test year. Services provided by C.G. Williams include sludge pumping and hauling and cleaning of the clarifier, chlorine contact chamber, and lift station.

It is common for maintenance costs of small sewer utilities such as Graham Estates to fluctuate from year to year. This is primarily due to the amount of time it takes for undigested sludge to accumulate to the point that pumping and hauling is required. To normalize these expenses in past cases the Commission has set the pro forma amount equal to the average annual expense of recent years. Staff recommends utilizing this methodology in this case.

Graham Estates has provided invoices from C.G. Williams for the years 1997, 1998, and 1999 that total \$525, \$360, and \$0, respectively. The three-year average is \$295. Staff proposes to decrease the C.G. Williams account by \$230 to reflect the average annual payment.

B) Legal and Professional Fees. Just prior to the teleconference Gilbert Construction submitted detailed legal invoices for 1998 that totaled \$2,991. They proposed to include a portion of the legal fees in the pro forma operations of Graham Estates. The table below summarizes the amount and nature of the fees.

Division of Water	1,361
Transfer	1,029
Rate Case	519
Line Break	50
Personal	32

ATTACHMENT A
AMENDED STAFF REPORT CASE NO. 99-315
STAFF'S RECOMMENDED OPERATIONS

During 1998 Gilbert Construction was billed \$1,361 for legal services rendered during settlement with the Division of Water ("DOW") in case numbers 23670-098 and 23671-098. As a part of those cases Gilbert agreed to file a rate application with this Commission and transfer ownership of Graham Estates' assets to either the Regional Water Resources Agency or The Summit Country Club, Inc. During 1998 Gilbert incurred legal fees of \$1,029 and \$519 for the asset transfer and the rate case filing, respectively.

The Commission should not allow recovery of penalties, interest, or costs related to judgements or settlements with the Division of Water resulting from utility noncompliance with state statutes or regulations. All costs should be borne by the stockholders of the utility.

It is Staff's opinion that legal fees for the transfer of assets should not be passed through to the customers of Graham Estates. Robert E. Gilbert, Sr. was ordered by the DOW to transfer the assets of Graham Estates for \$1. Mr. Gilbert is personally responsible for the transfer of assets, not Graham Estates' customers. Normally, when a transfer occurs the only related costs recoverable through rates is an acquisition adjustment which is recorded by the purchaser after the transfer is made. An acquisition adjustment is recoverable only if it is proven that the customers benefited from the transfer and a value can be reasonably assigned to that benefit. As of the date of this report Graham Estates has neither transferred its assets nor filed an application with this Commission to do so.

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STAFF'S RECOMMENDED OPERATIONS

Legal fees for the rate case filing were unnecessary. Commission Staff routinely assists utilities with the preparation and filing of rate applications pursuant to 807 KAR 5:076. In fact, Staff assisted Graham Estates with this filing. Graham Estates will not require legal representation in this proceeding unless it makes a formal appearance before the Commission. Mr. Gilbert is compensated to address administrative duties such as rate filings through the owner manager fee.

Staff recommends that all legal fees resulting from the DOW settlement, including the transfer and rate case expenses, be denied.

Gilbert incurred \$50 in legal fees resulting from a main break of Wright Acres, a separate sewer treatment plant operation. None of this cost is allocable to Graham Estates.

Of the 1998 legal fees \$32 was for personal consultation to Mr. Gilbert. Staff recommends that this amount be denied.

ATTACHMENT B
AMENDED STAFF REPORT CASE NO. 99-315
CALCULATION OF REVENUE REQUIREMENT AND RECOMMENDED RATE

Operating Expenses	8,678
Divide by: 88 percent	<u>88%</u>
Required Revenue	9,861
Divide by: Number of Customers	47
12 Months	<u>12</u>
Amended rate recommended by Staff	<u><u>17.49</u></u>